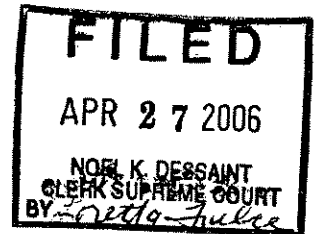


IN THE SUPREME COURT OF THE STATE OF ARIZONA

Supreme Court No. R-06-0003

**ORDER AMENDING
RULES 28 AND 124, RULES OF THE SUPREME COURT**



IT IS ORDERED that Rules 28 and 124, Rules of the Supreme Court, be amended on an emergency basis pursuant to Rule 28(G), Rules of the Supreme Court, in accordance with the attachment hereto,* effective as of May 3, 2006. This matter shall be open for public comment until July 21, 2006.

DATED in the City of Phoenix, Arizona at the Arizona Courts Building, this 27th day of April, 2006.

For the Court:


RUTH V. MCGREGOR
Chief Justice

* Changes or additions in text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

RULES OF THE SUPREME COURT

* * *

Rule 28. Procedure for Adoption, Amendment or Repeal of Rules

Preamble

It is the policy of the Arizona Supreme Court to establish an effective process for the adoption, amendment, and repeal of rules of procedure for the courts of this state which will provide for public notice and opportunity for comment from the members of the legal profession and the public on proposals to adopt, amend, or repeal rules, utilizing available technology. To carry out this policy, the court has established appropriate procedures, an interactive court rules website, and an annual rule-making cycle to implement its constitutional authority under Article 6, Section 5 of the Arizona Constitution, as hereinafter set forth.

(A) Petition for Adoption, Amendment, or Repeal of Rule; Deadline for Filing.

(1) Any person, association or public agency interested in the adoption, amendment, or repeal of a court rule may ~~file with the Clerk of the Supreme Court a~~ petition to adopt, amend, or repeal a rule. Such petition shall be filed on or before November 1 in any given year in order to be considered and acted upon by the court at its annual rules conference the following September. ~~Any such filing~~ A written paper petition shall be filed with the Clerk of the Supreme Court and shall consist of an original and six (6) copies, in addition to one copy of the petition and supporting documentation in Microsoft Word format on a CD, disk, or other compatible electronic medium format. A petition may also be filed electronically by submitting the petition in both PDF and Microsoft Word format on the Court Rules Forum website, as provided by Administrative Order No. 2006-37. The PDF version shall be considered the official record. The petition shall state the grounds for the adoption, amendment or repeal of the rule, include a draft of the proposed new or amended rule, and may be accompanied by supporting documentation. The petition and supporting documentation shall not exceed 20 pages, exclusive of pages containing a draft of the proposed new or amended rule. The form, method of preparation, and filing of the petition and supporting documentation shall substantially conform, insofar as practicable, to the requirements of Rule 6(c), ARCAP.

(2) After the filing of a petition, ~~the court shall review~~ clerk shall deliver the petition and any ~~accompanying papers supporting documentation to the court for~~

~~review and determination of~~ determine whether to open the matter the petition should be circulated for public comment, referred it to an appropriate committee for further study and report, or rejected it for lack of need, merit, or substance.

(3) If the court denies the petition for lack of need, merit, or substance, the clerk shall promptly ~~mail notice~~ notify the petitioner of the decision of the court ~~to the petitioner~~. If the court refers the petition to a committee for study and report, the clerk shall ~~give written notice to~~ notify the petitioner of the referral and shall include the name and address of the chairperson of the committee. The petitioner shall be entitled to submit written comment, either on paper or electronically, and appear before the committee. Notices shall be mailed or sent electronically, in accordance with Administrative Order No. 2006-37 and Rule 124 of these rules.

(B) Proposed Rule Changes by the Supreme Court. The court, on its own motion, may propose the adoption, amendment, or repeal of a rule. The proposed rule change, together with any documentation, shall be filed with the clerk, who shall thereafter ~~circulate the draft of the rule change~~ open the matter for comment in the manner provided in Rule 28(C).

(C) ~~Circulation of~~ Opening the Rule Change Petition for Rule Change Comment. Whenever ~~the circulation of a petition for a rule change is required by the court or by these rules to be opened for comment~~, the clerk shall prepare ~~and attach to each copy of the petition a request for comment which shall state~~ stating that the court invites written comment on the merits of the petition, ~~indicate~~ and indicating the place for filing such comments and the expiration date for filing such comments. Such comments may be filed on paper with the clerk, or may be filed electronically, as specified in paragraph (D) of this rule. Copies of the petition and the request for comment shall be sent by the clerk, on or before December 20 of each year, by mail or electronically, or as otherwise directed by the court, to the following:

Governor, State of Arizona
Speaker, Arizona House of Representatives
President, Arizona State Senate
Attorney General of Arizona
Director of the Arizona Legislative Council
Dean, Arizona State University Law School
Dean, University of Arizona Law School
Administrative Director of the Courts
Clerk, Court of Appeals, Division One
Clerk, Court of Appeals, Division Two
Each Superior Court Presiding Judge
Each Chief Judge of the Court of Appeals
Executive Director of the State Bar
President of the Justice of the Peace Association

President of the Municipal Judges Association
President of the Arizona Attorneys for Criminal Justice
Executive Director of the Arizona Prosecuting Attorneys Advisory Council
Executive Director of the Victim's Services Division, Office of the Attorney
General of Arizona
Chairperson of the Arizona Coalition for Victim Services
Presidents of all Organized Local Bar Associations
President of the Superior Court Clerk's Association
Executive Director of the Arizona Trial Lawyers Association
Executive Director of the Phoenix Association of Defense Counsel
President of the Tucson Defense Bar Association
Editor, Arizona Attorney (State Bar)
Editor, Maricopa Lawyer
Editor, The Writ (Pima Bar Association)
Code-Co
County Law Libraries

In addition, the clerk shall send copies of the petition and request for comment to such other persons or organizations as may be designated by the court. ~~The clerk shall also~~ and provide copies of the petition and request for comment to the members of the news media. The court shall also make copies of the petition and request for comment available on its ~~the Court Rules Forum~~ website.

(D) Comment on Proposed Rule Changes; Reply to Comments;

Deadlines. The form and method of preparation of written paper comments concerning the merits of a petition for rule change shall substantially conform, insofar as practicable, to the requirements of Rule 6(c), ARCAP, and shall not exceed 20 pages. ~~The court may also deem it advisable to provide by separate administrative order for the electronic filing of comments. In any case, eComments shall be filed, in either traditional paper format or electronic format, as provided by Administrative Order No. 2006-37, with the clerk on or before May 20 of each year, unless a different date is specified in the request for comments. Any such filing of a~~ A paper comment shall be filed with the clerk and shall consist of an original and six copies, in addition to one copy of the written comments and any supporting documentation in Microsoft Word format on a CD, disk, or other compatible electronic format-media. A comment may also be filed electronically by submitting the comment in both PDF and Microsoft Word format on the Court Rules Forum website, or alternatively, by submitting an informal comment in the manner indicated on the Court Rules Forum website, as provided by Administrative Order No. 2006-37. If filed, the PDF version shall be considered the official record. A copy of the comment shall be served upon the petitioner, which service may be made by electronic means if the petition was filed electronically. The petitioner shall have until June 30, or if an expiration date other than May 20 is specified, 30 days after the expiration of the comment period, to reply to any

comments. After the expiration of the time allowed for comment and reply, the clerk shall submit to the court the comments and replies that have been filed.

(E) Request for Public Hearing. At any time prior to the expiration of the time allowed for comment on a petition for rule change, the court, on its own motion or at the request of the petitioner or any interested person or organization, may order that a public hearing be held on the proposed rule change. The court shall determine the method and manner of holding such hearing or hearings. The hearing may be conducted before the court en banc, or before one or more members of the court assigned to conduct the hearing, before a master appointed to conduct the hearing or before a committee designated by the court.

(F) Consideration of Rule Change by the Court; Effective Date of Rules; Notice.

(1) In September of each year, after the time for public comment has expired and after the conclusion of any public hearings, the court shall consider the matters presented and shall act upon the proposed rule by adopting, modifying or repealing it, or by refusing to adopt, modify or repeal it.

(2) Unless another effective date is set forth in the court's order, all new rules and amendments that the court adopts in September shall be effective as of January 1 following the date of the court's action.

(3) The clerk shall notify ~~send notice of the action taken by the court to the~~ petitioner, ~~and those persons and organizations listed in Rule 28(C), and to those~~ persons and organizations who submitted comment on the petition for rule change of the action taken by the court. Notices shall be mailed or sent electronically, in accordance with the Administrative Order No. 2006-37 and Rule 124 of these rules.

(G) Emergency or Expedited Adoption of Rule.

(1) If a rule change petition presents an urgent matter for which compelling circumstances render the annual rule processing cycle inadequate, a request to consider a rule change petition on an expedited basis may be filed with the petition.

(2) If the court determines that immediate action is necessary for the adoption or amendment of a rule, the court shall take the action required by the circumstances. Any rule adopted by the court pursuant to this section shall be circulated by the clerk ~~opened~~ for public comment in the manner provided in Rule 28(C), and comment may be made in the manner provided in Rule 28(D).

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Rule 124. Electronic Filing, Delivery and Service of Documents

(a) Electronic Filing Authorized. In accordance with this rule and the corresponding Administrative Requirements for Electronic Filing and Management of Court Documents adopted concurrently herewith, the chief justice and the chief judge of each division of the court of appeals may permit by appropriate court rule or administrative order the electronic filing of documents in their respective courts. The presiding judge of the superior court in each county may permit by appropriate court rule the electronic filing of documents in the superior court and justice courts in each county. After consultation with the governing body of the city or town in which a municipal court is located, the presiding judge of the superior court may permit by appropriate court rule the electronic filing of documents in municipal court.

(b) Implementation of Electronic Filing. [No change in text.]

(c) Date and Effect of Electronic Filing. [No change in text.]

(d) Electronic Delivery of Documents by the Court. [No change in text.]

(e) Electronic Service of Documents by Parties. [No change in text.]

(f) Paragraph Numbering. [No change in text.]

(g) Computation of Time. [No change in text.]

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